



MINUTES OF THE REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY COMMISSION CHAMBERS, CITY HALL  
THURSDAY, OCTOBER 21, 2010 3:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, September 23, 2010, in the Commission Chambers at City Hall. Chairman Roland Stults called the meeting to order at 3:30 p.m. The following Commission members were present:

Roland Stults  
Jo Ann Heim  
Donald Lukich  
James Argento  
Charles Townsend  
Edward Schlein  
Clell Coleman

City staff that was present included Bill Wiley, Director; Yvette Brandt, Senior Planner; Mike Miller, Planner; Amber Demott, Administrative Assistant II, and Fred Morrison, City Attorney.

The meeting opened with an invocation given by Commissioner Jo Ann Heim and the Pledge of Allegiance to the Flag.

Bill Wiley, Director, informed the audience of the rules of participation and the need to sign the speaker's registry. Bill Wiley also informed Commissioners and the audience of the City Commission meeting dates tentatively scheduled.

Amber Demott swore in staff as well as anyone wishing to speak.

**MINUTES OF PLANNING & ZONING COMMISSION MEETING FOR SEPTEMBER 23, 2010.**

**Commissioner Donald Lukich moved to APPROVE the minutes as presented. Commissioner Jo Ann Heim SECONDED the motion, which was PASSED by a unanimous voice vote of 7 to 0.**

**NEW BUSINESS:**

**1. PUBLIC HEARING CASE # 041-0-102110 - RECYCLABLE – 100, INC. – SMALL SCALE COMPREHENSIVE PLAN AMENDMENT**

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF LEESBURG, FLORIDA, CHANGING THE FUTURE LAND USE MAP DESIGNATION OF A CERTAIN PROPERTY CONTAINING APPROXIMATELY 9.9 +/- ACRES FROM COUNTY URBAN EXPANSION TO CITY INDUSTRIAL FOR A PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF HAYWOOD WORM FARM ROAD, SOUTH OF ROGERS INDUSTRIAL PARK ROAD AND NORTH OF

**THE ARLINGTON RIDGE SUBDIVISION – (POSTPONED AT THE APPLICANT’S REQUEST UNTIL THE NOVEMBER 18<sup>TH</sup> PLANNING COMMISSION MEETING)**

**2. PUBLIC HEARING CASE # 042-1-102110 – RECYCLABLE – 100, INC. – REZONING**

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 9.9 +/- ACRES FROM COUNTY MP (PLANNED INDUSTRIAL) TO CITY SPUD (SMALL PLANNED UNIT DEVELOPMENT) TO ALLOW FOR AN AGGREGATE PROCESSING PLANT FOR A PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF HAYWOOD WORM FARM ROAD, SOUTH OF ROGERS INDUSTRIAL PARK ROAD AND NORTH OF THE ARLINGTON RIDGE SUBDIVISION - **(POSTPONED AT THE APPLICANT’S REQUEST UNTIL THE NOVEMBER 18<sup>TH</sup> PLANNING COMMISSION MEETING)**

**Commissioner Edward Schlein made a motion to POSTPONE case # 041-0-102110 - RECYCLABLE – 100, INC. – SMALL SCALE COMPREHENSIVE PLAN AMENDMENT and case # 042-1-102110 RECYCLABLE – 100, INC. – REZONING. Commissioner Donald Lukich SECONDED the motion which, PASSED by a voice vote of 7 to 0.**

**3. PUBLIC HEARING CASE # 043-2-102110 – LADY LUCK SWEEPSTAKES – CONDITIONAL USE PERMIT**

REQUEST FOR A RECOMMENDATION OF THE PLANNING COMMISSION TO GRANT A CONDITIONAL USE PERMIT FOR AN APPLICANT WHOSE PROPERTY IS APPROXIMATELY 3409 +/- SQUARE FEET WITHIN THE LAKE SQUARE MALL IN A C-3 (HIGHWAY COMMERCIAL) ZONING DISTRICT TO ALLOW A SWEEPSTAKES /INTERNET CAFÉ AT A PROPERTY LOCATED ON THE NORTH SIDE OF U.S. HIGHWAY 441 AND THE EAST SIDE OF RADIO ROAD - **(FINAL DECISION VOTED UPON BY THE PLANNING COMMISSION)**

Bill Wiley entered the exhibits into the record, which included the staff summary, departmental review summary, staff recommendations, conceptual site plan, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area map, and site photos.

Mike Miller presented the following items on the overhead, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area map, and site photos.

Bill Wiley noted that there were new regulations approved by the City Commission for this type of use since the last case that was presented to the board. The new ordinance regulates a specific distance between these facilities and schools, daycares and churches.

No substantive comments received from the departments, there were two public responses for approval received as noted in the packet.

Bill Wiley stated the staff recommendation is the same for the next case as for this one and wants to note it for the record to prevent duplication and they are for approval for the following reason:

1. This request meets the criteria set forth in Section 25-141 “Conditional Uses.”

2. The Conditional Use for the subject property is compatible with the existing City future land use designation of General Commercial.
3. The proposed Conditional Use is compatible with the adjacent zoning classifications in the City and County and does not appear to be a detrimental impact on the surrounding properties.

Bill Wiley stated the conditions as follows:

1. This conditional use permit is granted to the permittee to allow indoor recreation-Internet/sweepstakes redemption cafe and other accessory uses, in a C-3 (Highway Commercial) zoning district, as shown in Sec. 25-292 Supplemental District Requirements (21) Indoor recreation-Internet/sweepstakes redemption cafés, of the City of Leesburg Code of Ordinances.
2. This conditional use permit is subject to the requirements of Sec. 25-292 Supplemental District Requirements (21) Indoor recreation-Internet/sweepstakes redemption cafés of the City of Leesburg Code of Ordinances as per Exhibit A.
3. A time limit of eighteen (18) months shall be permitted to initiate the conditional use.
4. Violation of any of the conditions of this permit may result in the permit becoming null and void for the approved use.

The remaining conditions are standard language for these types of recommendations.

Vote to approve the Conditional Use for the subject property for Indoor recreation-Internet/sweepstakes redemption café with related uses as proposed based on compliance with the stated conditions.

Exhibit A was summarized by Bill Wiley.

Charles Townsend – “How many internet cafes do you have in operation in the state of Florida?”

George Dennacci – “I have zero, my partners have six.”

Charles Townsend – “Has your partners ever had any shut down?”

Mr. Dennacci – “No.”

Mr. Townsend – “That’s on record, none shut down.”

Mr. Dennacci – “None shut down, that’s on record.”

Mr. Townsend – “Educate me on a Internet Café, not a Internet but a redemption thing.”

Mr. Dennacci summarized how they operated.

A discussion was held regarding the legal standings of this type of establishment and the associations with charities.

**Commissioner Edward Schlein made a motion to APPROVE case # 043-2-102110 – LADY LUCK SWEEPSTAKES – CONDITIONAL USE PERMIT. Commissioner Donald Lukich**

**SECONDED the motion which, PASSED by a voice vote of 6 to 1 (James Argento).**

**4. PUBLIC HEARING CASE # 044-2-102110 – DIAMOND DUST/KIWI, INC. – CONDITIONAL USE PERMIT**

REQUEST FOR A RECOMMENDATION OF THE PLANNING COMMISSION TO GRANT A CONDITIONAL USE PERMIT FOR AN APPLICANT WHOSE PROPERTY IS APPROXIMATELY 2500 +/- SQUARE FEET WITHIN THE LAKE HARRIS SHOPPING CENTER IN A C-3 (HIGHWAY COMMERCIAL) ZONING DISTRICT TO ALLOW A SWEEPSTAKES /INTERNET CAFÉ AT A PROPERTY LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 27 AND THE SOUTH SIDE OF COUNTY ROAD 48 -  
**(FINAL DECISION VOTED UPON BY THE PLANNING COMMISSION)**

Bill Wiley entered the exhibits into the record, which included the staff summary, departmental review summary, staff recommendations, conceptual site plan, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment map and site photos.

Mike Miller presented the following items on the overhead, conceptual site plans, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment map and site photos.

No substantive comments received from the departments and there was one public response for disapproval noted in the packet.

Bill Wiley stated the staff recommendation had already been read into record from the previous case.

Bill Wiley stated a few comments:

Action requested is for approval based on the conditions included. This same location had been previously approved under the old requirements by a different applicant.

Duane Stauffacher sworn in by Amber Demott and stated his name for the record.

Charles Townsend asked the applicant a few questions regarding the operation of his business.

James Argento asked how the applicant became interested in this type of venture.

**Commissioner Jo Ann Heim made a motion to APPROVE case # 044-2-102110 – DIAMOND DUST/KIWI, INC. – CONDITIONAL USE PERMIT. Commissioner Donald Lukich SECONDED the motion which, PASSED by a voice vote of 6 to 1 (James Argento).**

**5. PUBLIC HEARING CASE # 046-1-102110 – EAST ANNEXATION (U.S. HIGHWAY 441 CORRIDOR) - REZONING**

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 106 +/- ACRES FROM COUNTY C-2 (COMMUNITY COMMERCIAL), RMRP (MOBILE HOME RENTAL PARK DISTRICT), RP (RESIDENTIAL PROFESSIONAL), CP (PLANNED COMMERCIAL DISTRICT), LM (LIGHT INDUSTRIAL DISTRICT), AND R-1 (RURAL RESIDENTIAL) TO CITY C-3 (HIGHWAY COMMERCIAL) AND P (PUBLIC) FOR PROPERTIES GENERALLY

LOCATED ALONG THE U.S. HIGHWAY 441 CORRIDOR FROM FERN DRIVE EASTBOUND JUST PAST COUNTY ROAD 44 - **(CITY COMMISSION DATES - 1<sup>ST</sup> READING ON NOVEMBER 8, 2010 (TBD) AND A 2<sup>ND</sup> READING ON DECEMBER 13, 2010)**

Bill Wiley entered the exhibits into the record, which included the staff summary, departmental review summary, staff recommendations, ownership table, general location map, aerial photo, proposed zoning map and general land use map.

Bill Wiley gave a brief history on City driven annexations and the process in which they take place. This board doesn't decide on the actual annexation.

Yvette Brandt presented the following items on the overhead, general location map, aerial photo, existing land uses, existing zoning map and a proposed zoning map and ownership table

No substantive comments received from the departments and there was one public response for approval and two for disapproval and both have been contacted and are aware of what we would be doing.

Bill Wiley stated the staff recommendation is for approval for the following reasons:

1. The proposed zoning districts of City C-3 (Highway Commercial) and P (Public) are compatible with all adjacent properties zoned County R-1 (Rural Residential), County R-6 (Urban Residential District), County CP (Planned Commercial District), County RMRP (Mobile Home Rental Park District), City C-3 (Highway Commercial), and City PUD (Planned Unit Development). The C-3 and Public zoning districts are compatible zoning districts for existing and future commercial development located along U.S. Hwy 441, generally located from east of Fern Drive to east of the intersection with CR 44.
2. The proposed zoning districts of City C-3 (Highway Commercial) and P (Public) are compatible with all adjacent properties and with the proposed future land use designations of City General Commercial, Institutional, and Conservation.
3. The rezoning of the subject property is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Vote to approve the recommendation to rezone the subject property from County C-2 (Community Commercial), RMRP (Mobile Home Rental Park District), RP (Residential Professional), CP (Planned Commercial District), LM (Light Industrial District), and R-1 (Rural Residential) to City C-3 (Highway Commercial) and P (Public) as proposed by staff on the attached "Proposed Zoning" map, subject to the property receiving annexation under case number 045-4-102110 from the City Commission and forward to the City Commission for consideration.

Bill Wiley stated that staff did conduct some comparisons for property taxes on several properties for the owners. Right now if they opted to take city services, the impact fees are waived. When they come in they don't have to pay the application fees associated with an annexation. By bringing them in to the city through this method it saves them a lot of money.

Merl Engleking— Fountain/Statue business property owner sworn in by Amber Demott.

Mr. Engleking wanted verification that he would still be able to operate the same business under the

new City zoning and ordinances.

Mr. Wiley stated that any current uses would be permitted under the new zoning district. If a change of use took place they would have to adhere to the new regulations.

**Commissioner Donald Lukich made a motion to APPROVE case # 046-1-102110 – EAST ANNEXATION (U.S. HIGHWAY 441 CORRIDOR) - REZONING. Commissioner Jo Ann Heim SECONDED the motion which, PASSED by a voice vote of 7 to 0.**

**6. PUBLIC HEARING CASE # 047-6-102110 – LEESBURG LANDING COMMUNITY, LLC - VACATE**

REQUEST FOR A RECOMMENDATION TO THE CITY COMMISSION TO VACATE A SUBDIVISION PLAT OR A PORTION THEREOF OF APPROXIMATELY .68 ACRES +/- IN A CITY R-3 (HIGH DENSITY RESIDENTIAL) ZONING DISTRICT TO REMOVE AN UNUSED RIGHT OF WAY FOR A PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF THOMAS AVENUE SOUTH OF DOCKSIDE DRIVE - (CITY COMMISSION DATES - 1<sup>st</sup> READING ON NOVEMBER 22, 2010 (TBD) AND A 2<sup>ND</sup> READING ON DECEMBER 13, 2010)

Bill Wiley entered the exhibits into the record, which included the staff summary, departmental review summary, staff recommendations, conceptual site plan, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area map and site photos.

Mike Miller presented the following items on the overhead, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment map, site photos and survey.

No substantive comments received from the departments or public responses.

Bill Wiley gave a brief history referencing the reason for the original right of way and why it was in place and the reason for which it was required to be vacated.

Bill Wiley stated the staff recommendation is for approval for the following reasons:

1. The area to be vacated is currently an unused right of way and its reservation for the proposed use as a roadway is no longer needed. The impacted areas are situated totally within the boundaries of the property that is currently owned by the applicants. Currently, there are roadways/drives provided by the applicants to permit access to Thomas Avenue.

Conditions:

1. Utility easements, as required by the City of Leesburg, shall be provided by the property owner to allow access to all existing and/or required utility service(s) for this property.
2. The granting of this vacation does not exempt the applicant from all other applicable regulations of the City of Leesburg and other governmental agencies.

Vote to approve the recommendation to vacate a portion of Leesburg Landing as proposed by staff and forward to the City Commission for consideration.

Mark Grimes, Attorney here for any questions.

Fred Morrison provided clarification on the right of way and its original purpose.

**Commissioner Edward Schlein made a motion to APPROVE case # 047-6-102110 – LEESBURG LANDING COMMUNITY, LLC - VACATE. Commissioner Donald Lukich SECONDED the motion which, PASSED by a voice vote of 7 to 0.**

**7. PUBLIC HEARING CASE # 047-2-102110 – BILL BRYAN KIA – CONDITIONAL USE PERMIT**

REQUEST FOR A RECOMMENDATION OF THE PLANNING COMMISSION TO GRANT A CONDITIONAL USE PERMIT FOR AN APPLICANT WHOSE PROPERTY IS APPROXIMATELY 4.16 +/- ACRES IN A C-3 (HIGHWAY COMMERCIAL) ZONING DISTRICT TO ALLOW AN AUTOMOBILE DEALERSHIP AT A PROPERTY LOCATED ON THE NORTH SIDE OF U.S. 441 AND THE WEST SIDE OF STEWART LANE ACROSS FROM THE LEESBURG AIRPORT - **(FINAL DECISION VOTED UPON BY THE PLANNING COMMISSION)**

Bill Wiley entered the exhibits into the record, which included the staff summary, departmental review summary, staff recommendations, conceptual site plan, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment area map and site photos.

Mike Miller presented the following items on the overhead, conceptual site plans, general location map, aerial photo, land use and zoning maps, flood zone and wetlands map, community redevelopment map and site photos.

No substantive comments received from the departments and there was one public response for approval noted in the packet.

Bill Wiley stated the staff recommendation is for approval for the following reasons:

1. This request meets the criteria set forth in Section 25-141 “Conditional Uses” of the City of Leesburg Code of Ordinances for the granting of a conditional use permit for a vehicle sales and service facility.
2. The conditional use of a vehicle sales and service facility for the subject property is compatible with the existing City future land use designations of GC (General Commercial) and consistent with the City’s adopted Growth Management Plan, Future Land Use Element, Goal 1, Objective 1.6.
3. The proposed Conditional Use is compatible with adjacent existing City zoning of C-3 (Highway Commercial), City PUD (Planned Unit Development), County R-1 (Rural Residential) and RP (Residential/Professional), and does not appear to be detrimental to surrounding properties.

Bill Wiley stated the conditions as follows:

1. This conditional use is granted to allow a vehicle sales and service facility, as defined in Sections 25-141 and 288(q)(2) *Vehicle services-Major* of the City of Leesburg Code of Ordinances.

2. A written hazardous materials and waste management plan shall be developed by the applicant and submitted to the Planning and Zoning Division prior to the issuance of a Conditional Use Permit. At a minimum, such plan shall address the acquisition, storage, use, and disposal of hazardous materials and vehicle-related waste products, including a floor drain with an approved oil/water separator properly installed in the sanitary sewer system with a sample point immediately downstream. A copy of an agreement between the applicant and the waste disposal companies shall be part of the plan and submitted to the Planning & Zoning Division within 30 days of Planning Commission approval.
3. Prior to any vehicle painting occurring on the site, all applicable fire safety and building code requirements shall be met; and all paint booths shall be designed, permitted, installed and operated in accordance with the applicable requirements. Vehicle painting shall not be permitted in the outdoor/open area on the site.
4. Outdoor storage/display of vehicles shall not occupy any required customer parking areas.
5. **All vehicle work shall be conducted within the building.** This operation shall fully comply with all standards and criteria contained in Sec. 25-288 Commercial Uses, (q) *Vehicle services*, (2) Major except as provided by these conditions.
6. Storage of wrecked or inoperable vehicles shall be permitted only for purposes of repair or until declared as salvage. Where possible, vehicles should be placed to the rear of the property away from public view from US441.
7. Approval is based on the conceptual site plan dated August 25, 2010.

**Commissioner Donald Lukich made a motion to APPROVE case # 047-2-102110 – BILL BRYAN KIA – CONDITIONAL USE PERMIT. Commissioner Edward Schlein SECONDED the motion which, PASSED by a voice vote of 7 to 0.**

**Discussion:**

None

The next scheduled meeting date is November 18, 2010.

The meeting adjourned at 4:47 p.m.

---

Roland Stults III, Chairperson

---

Jo Ann Heim, Vice Chairperson

---

Amber Demott, Administrative Assistant II